the presence or absence of a biopolymer marker of SEQ ID NO: 3, classified in class undetermined, subclass undetermined, for example.

Applicants here elect with traverse Group I (claims 1 and 2 as drawn to SEQ ID NO:1) for prosecution on the merits.

It is noted that the Examiner has also required an election of species under 35 U.S.C. 121 for Groups IV-XII, however since Applicants elect Group I (claims 1 and 2 as drawn to SEQ ID NO:1), the election of species is considered to be non-applicable.

It is understood that claims 3-38 as drawn to the non-elected Groups, will remain pending, albeit withdrawn from further consideration in this application.

REMARKS/ARGUMENTS

The Examiner has objected to claims 1, 18, 29, 30, 33, 34 and 38 as each allegedly recites an improper Markush grouping. The Examiner states (page 2 of the Office Action mailed on January 23, 2003) that claims 1, 18, 29, 30, 33, 34 and 38 are each improper Markush claims because the plurality of amino acid sequences recited in these claims lack a common utility which is based upon a shared structural feature lacking from the prior art.

The amino acid sequences identified as SEQ ID NOS:1-3 are each fragments of the same plasma protease (C1) inhibitor protein. Since each of the three claimed amino acid fragments are parts of the C1 inhibitor protein, the sequence structure of the larger "parent" C1 inhibitor protein is considered to be a shared structural feature between SEQ ID NOS:1-3. Furthermore, since nucleotide sequences encoding the same protein are not considered by the Office to be independent and distinct inventions and are examined together (see MPEP 803.04), it follows that amino acid sequences encoding the same protein should be examined together. Additionally, the Examiner's attention is drawn to the fact that the instant

application claims three short amino acid sequences, seven sequences less than the ten sequences normally considered by the Office as reasonable for examination purposes.

SEQ ID NOS:1-3 are identified by the instant inventors as fragments of C1 inhibitor protein which are predictive of Alzheimer's Disease. Thus, SEQ ID NOS:1-3 share a common utility as markers predictive of disease.

Applicants have now demonstrated that unity of invention of exists between the amino acid sequences of the Markush groupings recited in claims 1, 18, 29, 30, 33, 34 and 38 by showing a shared common utility (markers predictive of a disease state) and by showing shared structural feature (sequence of the "parent" C1 inhibitor protein).

If the fragments of SEQ ID NOS:1-3 are found to be novel, methods limited to their use should also be novel.

Now that applicants have fully responded to the Requirement for Restiction/Election under 35 U.S.C. 121, an examination on the merits is respectfully requested.

Respectfully submitted,

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